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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/125,404	05/12/99	GERSTENMEIER	J 10191/776

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NEW YORK, NY 10004

MMG1/1122

EXAMINER

ASSOUAD, P

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 11/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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7

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Commissioner of Patents and Trademarks

Patrick J Assouad  
Primary Examiner  
Art Unit: 2857

# Office Action Summary

Application No.

09/125,404

Applicant(s)

GERSTENMEIER ET AL.

Examiner

Patrick J Assouad

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 15, 17, 19, 21, 23, 25, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 16, 18, 20, 22, 24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 1999 is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 12 May 1999 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Drawings*

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 5/12/99 have been received.
3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). See the Brief Description of Fig.1 and also see Fig. 1 (reproduced below) of US Patent 6,109,102.
4. Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). See Fig. 2 (reproduced below) of US Patent 6,109,102.

### *Claim Rejections - 35 USC § 102*

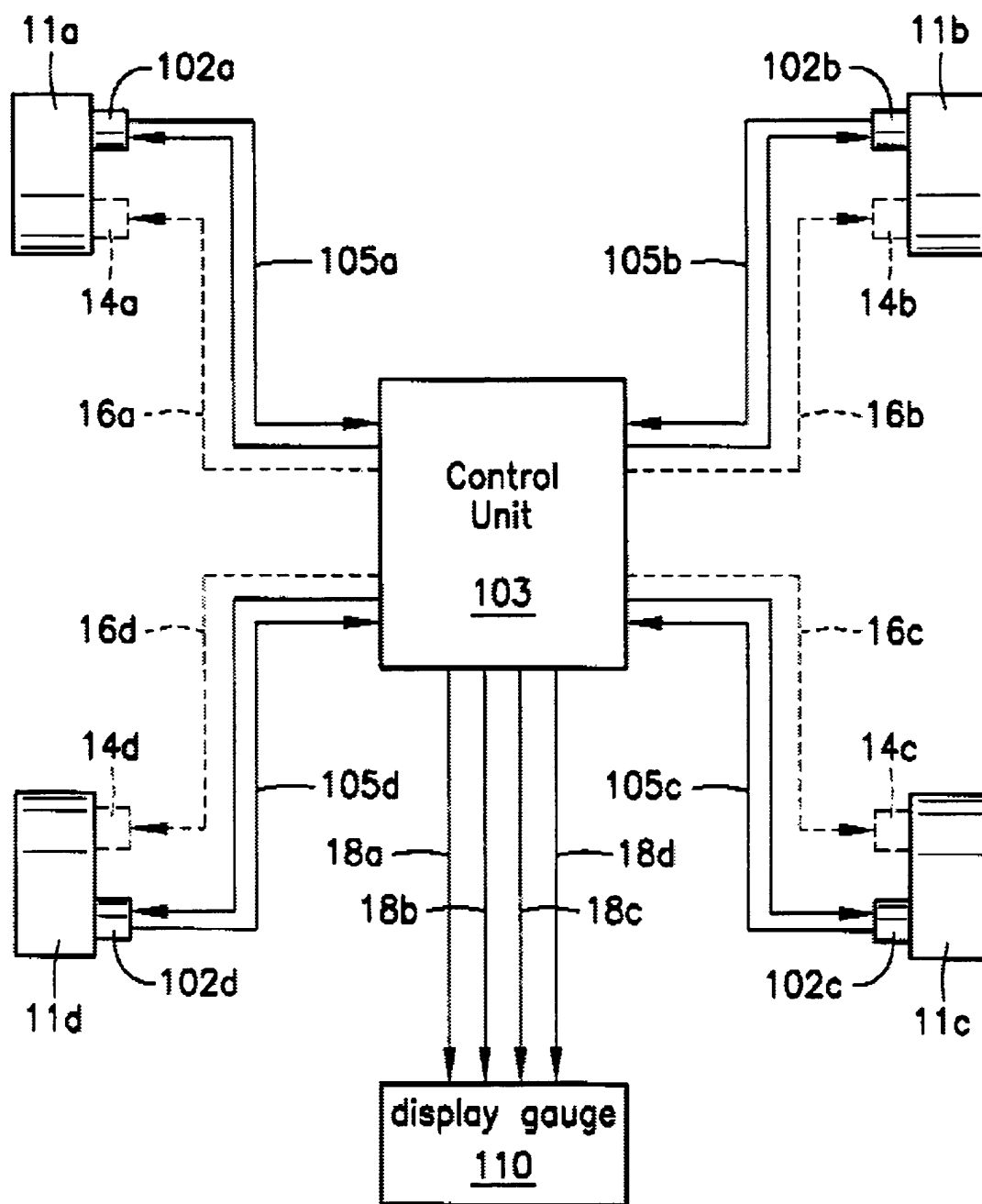
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

- POB  
4/15/00
6. Claims <sup>10</sup>1-11, 13, 14, 16, 18, 20, 22, 24, 26, and 27 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by **Schneider** ('102) filed 5/29/97.

Note: For ease in understanding this rejection, Figs. 1-2 and 5 of **Schneider** are reproduced below.



**Fig. 1**  
Prior Art

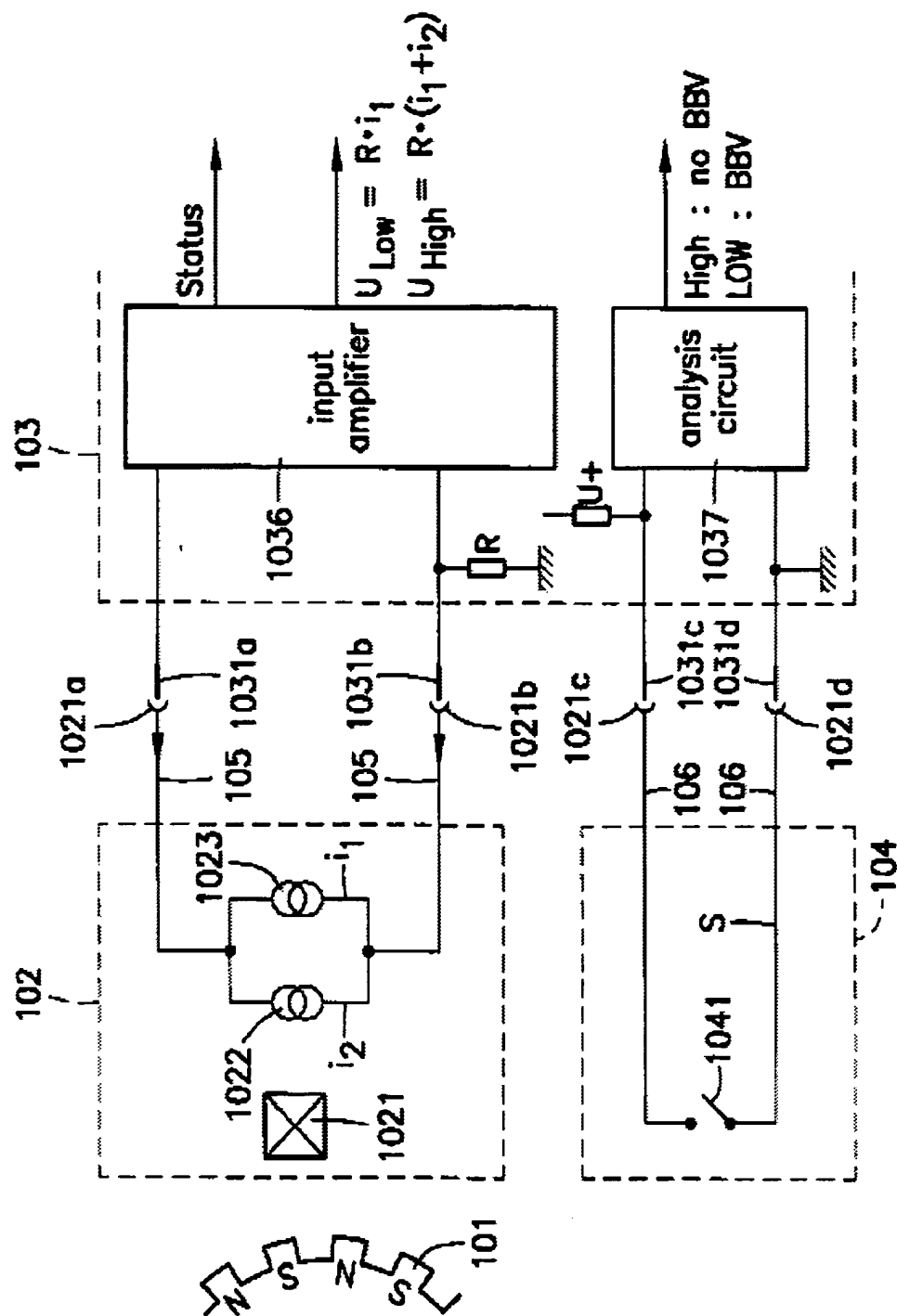


Fig. 2

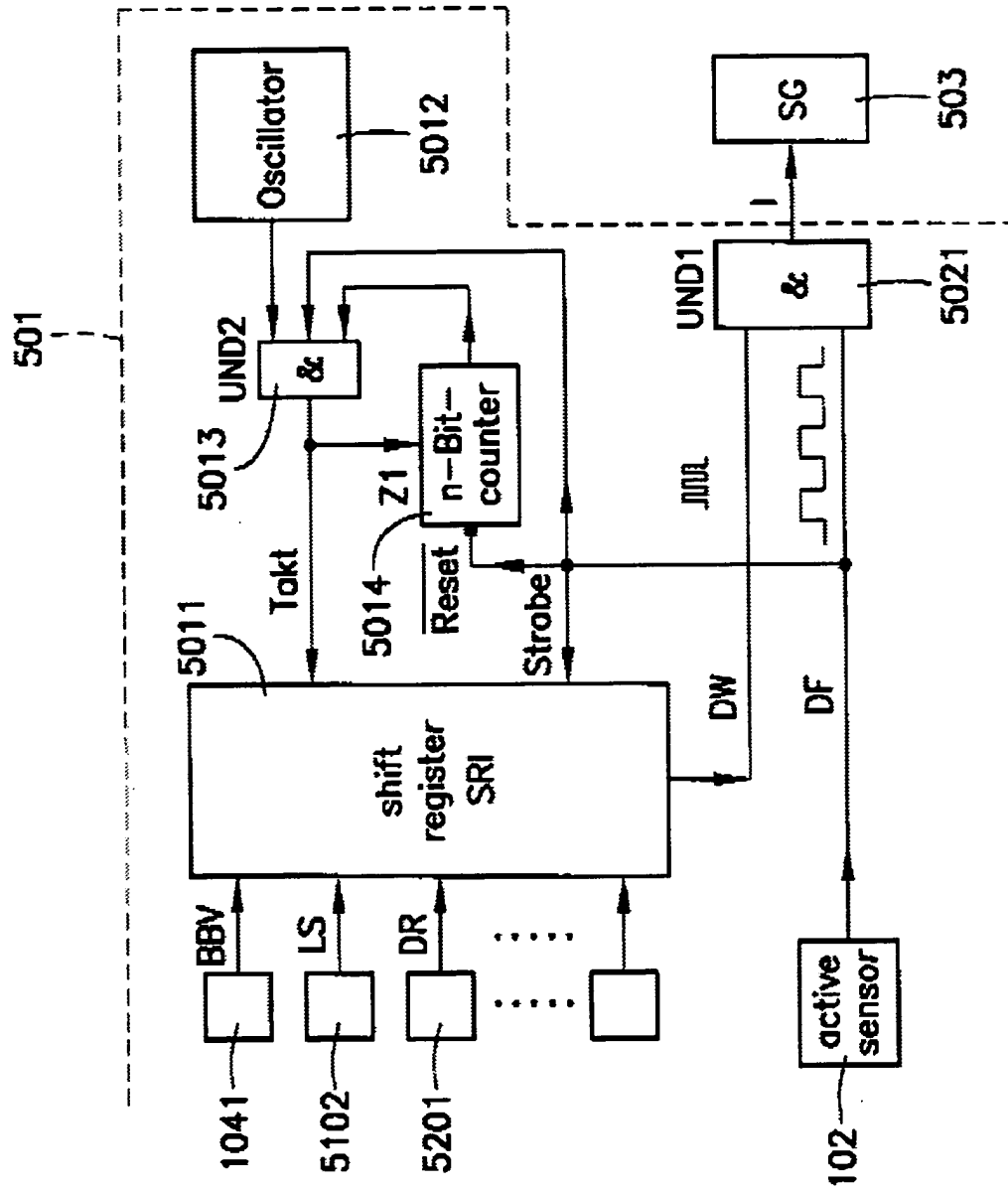


Fig. 5

7. The correspondence between the instant claimed invention (independent claims 10-11, and dependent claims 13-14, 16, 18, 20, 22 and 26-27) and that of **Schneider** is as follows: "a first arrangement..." is active sensor 102 generating rotational speed signal DF of Fig. 5; and "a second arrangement..." is braking lining wear sensor 1041 generating signal BBV, excessive air gap sensor 5102 generating signal LS, rotational direction sensor 5201 generating signal 5201, etc. which produce data word DW; and finally, "a third arrangement..." is superimposer 5021 which generates superimposed signal 503 of Fig. 5 of **Schneider**. For the location of these "arrangements", see at least Figs. 1-2 of **Schneider**.

***Allowable Subject Matter***

8. Claims 12, 15, 17, 19, 21, 23, 25, 28, 29 are allowed.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Most notable is **Brearley et al.** ('672) which discloses a brake lining wear sensing system for a vehicle.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J Assouad whose telephone number is 703-305-3811. The examiner can normally be reached on Tuesday-Friday, 6:30am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for



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the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Patrick J Assouad  
Primary Examiner  
Art Unit 2857

PJA  
November 15, 2000